

REMARKS

Claims 1-14 are pending in the present application and stand rejected. The Examiner's reconsideration is respectfully requested in view of the following remarks.

Claims 1, 3, 4, 7, 8, 10, 11, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Karmann (U.S. Patent No. 5,034,986) (hereinafter "Karmann") in view of Abbott (U.S. Patent No. 5,999,634) (hereinafter "Abbott").

Claims 2, 6, 9 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Karmann as modified by Abbott, and further in view of M. Ostendorf et al., "HMM topology design using maximum likelihood successive state splitting" (hereinafter "Ostendorf").

Claims 5 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Karmann as modified by Abbott, and further in view of Higashikubo et al. (U.S. Patent No. 5,999,635) (hereinafter "Higashikubo").

The Office Action asserts on page 3 that the combination of Karmann and Abbott teach "combining the change detection map with the geometric parameters *to determine a measure of congestion* of the given frame," as claimed in claims 1 and 8. However, while referencing Figure 5, the Office Action admits on page 6 that the combination of Karmann and Abbott, "does *not* disclose measuring congestion." The Office Action then submits a new reference, Higashikubo. Applicants respectfully agree with the admission by the Office Action that the combination of Karmann and Abbott does not disclose "measuring congestion," as claimed in claims 1 and 8. Applicants respectfully request clarification on the rejections to claims 1 and 8, such that the rejections are made consistent with the admission made on page 6 of the Office Action.

The combination of Karmann and Abbott does not teach or suggest “estimating geometric parameters for representing a scale variation of objects in a given frame, *the geometric parameters comprising a weighting for each pixel in the given frame*,” as claimed in amended claim 1. In particular, neither reference, individually or in combination, teaches or suggests weighting each pixel for representing a scale variation of objects in a given frame, as essentially claimed in claim 1.

It is respectfully submitted that the motivations for combining the references provided by the Office Action are entirely speculative. “Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention *where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.*” (MPEP 2143.01). Combining the references using the benefit of hindsight is not permitted. Accordingly, Applicants respectfully request *explicit citation* to the references to support the Office Action’s stated motivations *or otherwise objective evidence* establishing that the stated motivations to combine were known to one of ordinary skill in the art at the time the invention was made.

Accordingly, claims 1 are believed to be patentably distinguishable over the combination of Karmann and Abbott. Independent claim 8 is believed to be allowable for at least the reasons provided for claim 1. Dependent claims 2-7 and 9-14 are believed to be allowable for at least the reasons given for claims 1 and 8. Withdrawal of the claim rejections of claims 1-14 is respectfully requested.

In view of the foregoing remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

By: Donald B. Paschburg
Donald B. Paschburg
Reg. No. 33,753
Attorney for Applicants

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
5th Floor – IPD Dept.
Iselin, New Jersey 08830
(732) 321-3191